

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 1999-730

November 1, 1999

BELL ATLANTIC - MAINE  
Request for Approval of  
Interconnection Agreement with  
Mid-Maine TelPlus, Inc.

ORDER APPROVING  
INTERCONNECTION  
AGREEMENT

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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In this Order, we approve an interconnection agreement between New England Telephone and Telegraph Company d/b/a Bell Atlantic - Maine (Bell Atlantic) and Mid-Maine TelPlus, Inc., pursuant to section 252 of the Telecommunications Act of 1996.

On October 13, 1999, Bell Atlantic filed on interconnection agreement with Mid-Maine TelPlus, Inc., (MMTP) arrived at through compulsory arbitration pursuant to 47 U.S.C. § 252, enacted by the Telecommunications Act of 1996. Interconnection agreements provide for interconnection between an incumbent local exchange carrier (ILEC) and another telecommunications carrier, including a competitive local exchange carrier (CLEC). An interconnection agreement may allow a telecommunications carrier to purchase unbundled network elements, or local services at a discounted wholesale rate (the discount reflecting avoided cost), or both, from an ILEC (or CLEC).

On July 31, 1998, MMTP petitioned the Commission to arbitrate issues between MMTP and Bell Atlantic that were not resolved in negotiations between those parties. The Commission undertook such arbitration in Docket No. 98-593 and 98-806. We addressed the disputed issues in Orders dated March 25, 1999 and April 9, 1999 in those proceedings.

The agreement filed by Bell Atlantic incorporates a blank Exhibit E, titled "Network Interconnection Schedule." That Exhibit is apparently intended to set activation dates on which traffic between Bell Atlantic and MMTP will occur to implement the agreement. We note that the schedule is substantively blank. When the parties agree on a time frame to implement the filed agreement, they should file a completed Exhibit E as an amendment to the agreement we approve today.

Most of the terms of this interconnection agreement were the result of arbitrated decisions by the Commission. The prices, however, were negotiated. Under 47 U.S.C. §252(e), different criteria apply to the approval of negotiated and arbitrated agreements. Section 252(e)(2)(B) states that a state commission may reject an arbitrated agreement only if it finds that "an agreement does not meet the requirements of section 251, including the regulations prescribed by the [FCC] pursuant to section 251 . . . .". We do not make the findings set forth in section 252(e)(2)(B) for rejection.

As noted above, the prices in this interconnection agreement were negotiated, not arbitrated. Accordingly, the Telecommunications Act of 1996 (47 U.S.C. § 252(e)) does not require the Commission to find that the prices meet the pricing standards contained in 47 U.S.C. § 252(d). We therefore make no such finding. 47 U.S.C. § 252(e)(2)(A) states that the Commission cannot reject a negotiated agreement unless it finds that it discriminates against another telecommunications carrier or that it is not consistent with the public interest. We make neither finding. We received no comments by the comment deadline set in the October 15, 1999 Notice of Agreement and Opportunity to Comment. We approve the agreement.

We qualify our approval in two respects, however, and reserve findings on future potential issues. First, we reserve judgment on whether the rates contained in the agreement are reasonable from the perspective of Bell Atlantic's retail ratepayers. Bell Atlantic is presently under an alternative form of regulation (AFOR) ordered by the Commission in Docket No. 94-123. The AFOR began in December, 1995. Under the AFOR, Bell Atlantic bears the risk of lost revenues resulting from rates that are too low. However, at the end of the initial 5-year period of the AFOR, and in 2005 if the present AFOR is renewed, we may have occasion to review Bell Atlantic's earnings. We do not resolve whether Bell Atlantic is receiving reasonable compensation from any CLECs that may avail themselves of the rates provided to MMTP pursuant to 47 U.S.C. § 252(i) and, if they are not reasonable, whether we should impute revenues to Bell Atlantic.

Second, section 271(c) of the Act, 47 U.S.C. § 271(c), requires that the Bell Operating Companies (BOCs) meet certain requirements before they are allowed to provide interLATA service (the so-called "competitive checklist"). Under section 271(d)(3), the Federal Communications Commission (FCC) must determine whether the BOC has met the competitive checklist before granting the BOC authority to provide interLATA service within its region. Prior to making that determination, the FCC must consult with state commissions to verify the compliance of the BOC with the checklist. Our approval of this Agreement should not be construed as a finding that Bell Atlantic has met those requirements.

The agreement filed by Bell Atlantic provides for interconnection between MMTP and Bell Atlantic's network in Maine. If MMTP seeks to interconnect with networks maintained by independent local exchange carriers in Maine, it must seek a termination, suspension, or modification of the exemption contained in 47 U.S.C. 251(f)(1)(A).

**ORDERING PARAGRAPHS**

Accordingly, we

1. Approve the Interconnection Agreement between New England Telephone and Telegraph Company d/b/a Bell Atlantic - Maine and Mid-Maine TelPlus, Inc., attached hereto, pursuant to 47 U.S.C. § 252(e); and

2. Order that the Administrative Director shall make a copy of the attached Agreement available for public inspection and copying pursuant to 47 C.F.R. § 252(h) within 10 days of the date of this Order.

Dated at Augusta, Maine this 1st day of November, 1999.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR: Welch

Nugent  
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R. 110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission to the Maine Supreme Judicial Court, sitting as the Law Court, is not available, as provided in 47 U.S.C. § 252(e)(6).
3. Review of this discussion is available to an aggrieved party by bringing an action in federal district court, as provided in 47 U.S.C. § 252(e)(6).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.